

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, December 5, 2016

Those Present: Mr. Rick Stup, Chairman
 Mrs. Maggi Hays, Board Member
 Mr. Jesse Pippy, Board Member
 Mrs. Kathy V. Dean, Administrator
 Mr. Harold DeLauter, Alcoholic Bev. Inspector
 Mr. Bob Shrum, Alcoholic Bev. Inspector
 Mrs. Wendy Kearney, Senior Assistant County Attorney
 Mrs. Penny Bussard, Administrative Specialist V
 Mrs. Ashley Sklarew, Administrative Specialist V

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:05 AM by Chairman Stup.

1. Board Comments:

A. Mr. Rick Stup opening comments-Thanked the Health Department for being present. Mr. Stup will add to the agenda a new license application that was conditionally approved months ago that needs consideration by the Board. With approval of the Board, it will be in agenda item D under #5 New Licenses and it is for Mr. Jim Doll's application for Middletown.

B. The Board would like to wish everyone happy holidays.

C. Mr. Jesse Pippy stated that Governor Hogan has implemented the customer service promise throughout the state. This is a pledge for state agencies. Frederick County Liquor Board was not listed on this pledge, but Mr. Pippy wanted to discuss this with the other Board members to see if the Board could formally adopt the pledge. The pledge states: "The State of Maryland pledges to provide constituents, businesses, customers, and stakeholders with services in the following manner: Friendly and Courteous, Timely and Responsive, Accurate and Consistent, Accessible and Convenient, Truthful and Transparent." At the end of the day when it comes down to licensees, the public, customers and businesses, we always want to offer top notch service. Mr. Pippy stated thinks the staff does a great job but he thought adopting something formal and offering a survey online if a licensee has a question or issue they can fill it out and send it in and it can be discussed at the next meeting. Mr. Stup stated it was a great idea. The old Board took many steps to improve transparency, updating the website and getting information out to licensees. Mr. Stup is in favor with working with staff to get information on the website. Mrs. Hays also agrees. The Board was in consensus in adopting the State of Maryland customer service promise.

2. Mrs. Dean provided the violation update-all violations have been scheduled for public hearing and all no contest letters have been sent out. At this point all violations are up-to-date. There are two cases that are scheduled to be heard in

January 2017. Mr. Stup commended the staff with getting violations caught up in addition to their large workloads.

3. Decision Required: Violation

A. License Not Displayed

RE: Michael Allen
for the use of Mikey's Place, LLC
t/a Manny Mart
119 S Market Street
Frederick, MD 21701
Class A, Off Sale, Beer Only
11A 5209 SU

Mrs. Kearney swore in the applicant for this case. Mrs. Kearney read the charges that on May 28, 2016, at approximately 7:15pm, the licensee failed to have the new license displayed in a frame, under glass, in full view of the public. This violated §3.2(g) of the Frederick County Alcoholic Beverages Regulations. Licensee of the establishment, Mr. Michael Allen, pleaded guilty. Mr. Allen stated he had the new license he just didn't have it posted. Mr. Stup wanted to know why Mr. Allen just didn't handle this violation through the no contest letter since he has pleaded guilty. Mrs. Penny Bussard stated the licensee came in after the expiration of the no contest letter so a hearing was automatically scheduled. On September 26, 2016, the inspector hand delivered the no-contest letter. Mr. Pippy asked the licensee if the letter was clear to him. Mr. Allen stated he gave the letter to his secretary and then she gave him a check. When he brought it in Mrs. Bussard turned him away. Mrs. Bussard stated Mr. Allen came in the day before the hearing letter was mailed. Mrs. Dean went over the importance of having the license displayed. Mrs. Kearney read the charging documents under the Alcoholic Beverages Articles section 4-604, A2 authorizes revocation or suspension of a license for offenses specified in the article, section 4-604 B2 for the willful failure to failure or refusal of the license holder to comply with the regulation adopted under this article, section 4-604 B4 requires the revocation or suspension of the license for two or more convictions within two years of an agent or employee of a license holder for on premises violation of this article, section 20-2802 allows the Board to impose a fine of not more than three thousand dollars for each offense or suspend a license. The Board may also do both. Mrs. Dean read the violation history for the establishment. The original license was issued July 6, 2012. On November 19, 2012 License was not posted and warning was given, November 18, 2013 selling alcoholic beverages to a patron outside of the licensed area a two hundred dollar fine was given, May 5, 2014 selling alcoholic beverages to an intoxicated person was found not guilty, June 13, 2014 picked up the license late and paid a three hundred dollar fine, August 25, 2014 sale to a minor, paid a five hundred dollar fine and a 30 day suspension.

MOTION: Mrs. Hays made a motion to assess a \$100 fine.

Motion dies no second

MOTION: Mr. Pippy made a motion to assess a \$300 fine and a \$100 administrative fee for a total of \$400

SECOND: Mr. Stup.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

B. Hours of Operation

RE: Pritesh Patel
for the use of Westview Liquors, LLC
t/a Westview Liquors
5213 Presidents Court
Frederick, MD 21704
Class A, Off Sale, Beer, Wine & Liquor
11AL 1200 SUBWLT

Mrs. Kearney swore in the applicants for this case. Mrs. Kearney read the charging document that stated on October 7, 2015 at approximately 6:20pm Inspector Harold Delauter went to the establishment to find it closed. The hours of operation hours on file with the Board show this establishment was scheduled to be open at that time. They failed to notify the Board of a change in hours as required by section 5.20F of the Frederick County Alcoholic Beverages Regulations. The second charge on December 19 at approximately 5:23 pm, Inspector Delauter went to the establishment and found it closed again. The licensee pleaded guilty both charges. Mr. Pritesh Patel stated there was a family emergency and there wasn't enough time to notify the Board. The second charge was during a 15 minute lapse time from when one employee left to another employee came in. The licensee stated that he did not get the letter and felt it was necessary to explain. Vijay Patel received the no contest letter but did not give it to his son, the licensee Pritesh Patel. Mr. Pippy went over the procedures of a no-contest letter again. Mr. Pritesh Patel stated he came into the office to find out the procedures and found that a hearing was already scheduled. Mr. Stup stated that the Board decided to schedule hearings after the no-contest letters go unanswered. Mrs. Dean stated there is no prior history. Mr. Martin Schipper stated that every time he has been there, they have always been open the hours they stated. Mr. Pippy stated if you go on line and type in Westview Liquors. The biggest complaint from the public states that the establishment is never open during their posted hours. Mr. Patel stated there is a partnership issue and they are in the process of removing the other person. Mrs. Hays stated

that she heard that the electric bill had not been paid and that was a reason for closing most recently. Mr. Patel responded and said yes he is aware and that was true. Mrs. Kearney read the provisions as Alcoholic Beverages Articles section 4-604 A2 authorizes revocation or suspension of a license for offenses specified in the article, section 4-604 B2 for the willful failure to failure or refusal of the license holder to comply with the regulation adopted under this article, section 4-604 B4 requires the revocation or suspension of the license for two or more convictions within two years of an agent or employee of a license holder for on premises violation of this article, section 20-2802 allows the Board to impose a fine of not more than three thousand dollars for each offense or suspend a license. The Board may also do both

MOTION: Mr. Pippy motioned to assess a fine of \$300 and \$100 administrative fee for the first charge and a fine of \$500 and \$100 administrative fee for a total of \$1,000.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

4. Decision Required: New Application

RE: Jose Roberto Delcid
for the use of Mi Rancho Grande LLC
t/a Mi Rancho Grande Resturant
193 C Thomas Johnson Drive
Frederick, MD 21700
Class B, On Sale, Beer, Wine & Liquor

Mrs. Dean swore in the applicants. Pending items for this application are Workers Comp, Occupancy Permit, Fire Marshal, Health Department, Taxes, Traders License and Inspector's Report. Mr. Jose Delcid stated he had called all three offices and all inspections should be complete by next week. He will submit the worker's compensation certificate to staff. Inspector Shrum was at the establishment December 1, 2016 and they are not ready as the establishment is still under construction. Mr. Pippy asked if Alcohol Awareness Training had been completed. Mr. Delcid stated three employees have taken the Alcohol Awareness class. Mrs. Dean verified three certificates have been submitted with the application. Mr. Delcid will not be there full time as he is in college, however, his father will be there a majority of the time. Mr. Stup let the applicant know

that he will still be responsible for what occurs in the establishment. Mr. Stup stated there was a request for entertainment and it falls in the guidelines the Board has set forth.

MOTION: Mrs. Hays made a motion for Conditional Approval until February 27, 2017.

SECOND: Mr. Pippy second the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

5. Decision Required: New Application

RE: Steven Deffinbaugh, Jonathan Bostin
& Joan Deffinbaugh
for the use of Ragin Restaurant Group, LLC
t/a Ragin' Reef
506 E. Church Street
Frederick, MD 21701
Class B, On Sale, Beer, Wine & Liquor

Mrs. Dean swore in the applicants. The pending items are Occupancy Permit, Fire Marshal, Health Department, and Inspector's Report. Mrs. Dean stated that according to the Montgomery County Liquor Board there had been one violation in that location in 2014 of a sale to minor. They paid a thousand dollar fine. Montgomery County commended Mr. Deffinbaugh for being involved in the community and recommend their business model. Mr. Deffinbaugh explained that the violation of serving a minor was dealt with swiftly and the server was terminated. Construction is finishing up in the next two weeks. Inspector Shrum went to the establishment on December 1, 2016. The building is still under construction and he will have to go back once the construction is complete. Mrs. Hays noted that their security plan was thorough. Mr. Pippy asked about being next door to a distillery and what kind of traffic that may come to the establishment. Mr. Stup asked about Sunday hours. The applicant would like to open on Sundays at 9:00am for brunch. Mr. Stup went through the regulation about having an Alcohol Awareness certified person on staff at all times alcohol is being served. Mrs. Dean stated currently there is only one person on file who is Alcohol Awareness certified. The outside area is something the applicants would like to do in the future but not at this time. Mr. Stup stated

January 18, 2017, is the next ABLE training that is designed for new licensees, Mr. Stup highly encourages it.

MOTION: Mrs. Hays made a motion for Conditional Approval until February 27, 2017.

SECOND: Mr. Pippy seconded the motion

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

6. Decision Required: New Application

RE: Randy Lewis & Suzanne Lewis
for the use of Ballenger Beverage LLC
t/a Ballenger Beer & Spirits
5862 Ballenger Creek Pike
Frederick, MD 21703

Class A, Off Sale, Beer, Wine & Liquor
Sunday Permit & Beer, Wine & Liquor Tasting

Mrs. Dean swore in the applicants. The pending items are Zoning, Occupancy Permit, Fire Marshal, Final Lease and the Inspector's Report. The application included a Sunday Permit and a Beer, Wine and Liquor tasting. Mrs. Lewis has the final lease and it is in the hands of her attorney to review. The location was given to the applicants in as-is condition and they had to make some improvements. Inspector DeLauter stated he was at the establishment on November 29, 2016. The location is not ready and it will need to be re-inspected before opening. Both applicants have taken the Alcohol Awareness Training through the Liquor Board's staff. The rest of the staff will be scheduled to take the class in January 2017. Mr. Stup clarified the store hours. Mr. Pippy asked if the lease has been worked out. Mrs. Lewis is hoping to have it signed within the week. The permits office will be notified once they sign the lease, they have a construction company ready to begin once the permit is pulled. There was no public comment.

MOTION: Mrs. Hays made a motion for a Conditional Approval on February 27, 2017 including the Sunday Permit and Beer, Wine and Liquor Tasting permit.

SECOND: Mr. Pippy seconded the motion

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
 Mrs. Hays-Aye
 Mr. Pippy-Aye

The vote was unanimous Aye-3, Nays-0
(Motion Passed)

7. **Middletown Application**-Mrs. Dean swore in Mr. James Doll, applicant for the former dry district. Mr. Doll stated that he has been working on this with the property owner and leasing agent. When Mr. Doll went to the Town about the Zoning, there wasn't anything for off sale Liquor. Now Mr. Doll needs to apply for a text amendment to the Charter to have liquor in town limits. This process will take 120 days to complete. A copy of the letter will be provided to the Board, Mr. Doll has a copy in his car. Rudy's is outside of the town limits but is in the same election district. Mr. Doll's second location is also in the town limits. The hearing for the priority list was in August. It has been a struggle for Mr. Doll to get a lease ratified. Mrs. Dean stated that the applicant is in the two-week extension that expires tomorrow. The application cannot be completed by tomorrow. Mr. Doll doesn't want to spend the money and time opening up a corporation if he cannot move forward. Mrs. Dean asked what he has completed on his application. Mr. Doll says there is no way he can get this done by tomorrow. This is why he is here to get an extension. Mr. Pippy stated that he believes the applicant deserves a fair chance with zoning. Mr. Stup stated that if no one can get a license in town then the whole priority list may need to be re-done. All applicants were within the town limits. Mr. Doll says it will take another 120 days to get the town to move on this change for the off sale sales. Mr. Stup reiterated the process of how Mr. Doll became number two and where the applicants stand. At this point no Liquor stores are permitted downtown by Zoning. Mr. Pippy said at some point a decision has to be made whether to keep fighting for this location. He feels we should send something official to the town. Mr. Stup suggest we waive our requirement for the application so Mr. Doll can work on the process, second we need a copy of the letter, three we verify with the town if there are issues within the town. Mr. Stup believes we need 180 days for conditional approval. Mr. Pippy asked before a motion is made that if the response is unrealistic. He doesn't want to tie up an available license. Mr. Stup states we need to open that entire list up to be fair and the others will face the same issues. Mr. Doll answered if the town doesn't allow the zoning to change then yes we would have to open it back up to everyone. Mr. Stup clarified his position. Mrs. Kearney asked for another clarification that the Board is asking staff send a letter to the town if they will allow the license in this dry district. Mr. Doll added that the letter he received from Mr. Forester and it needed to be clarified. Mr. Pippy suggest we send a letter to the zoning administration listing all four

applicants in priority order, we ask about current zoning permits any of the establishments to open as they requested, we then assuming we get the answer before January 9, have the four applicants come in and explain to them that they can choose a new location or they can submit the current location hoping for the change in the amendment, if the applicant thinks they can get a zoning amendment within that timeline. Mr. Pippy feels we are going to continue this same cycle if we don't address this. Mr. Stup doesn't feels it is fair to this applicant. Mr. Pippy doesn't want to hold up a license for six months.

MOTION: Mr. Stup made a motion for to waive the regulation with regard to the application, the applicant must submit a copy of the letter from zoning, verify with the town, Drew Bowen, that the other applicants can't move forward, and applicant has 180 days to file a complete application to the Board.

SECOND: Mrs. Hays seconded the motion

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Abstained

The vote was Aye-2, Nays-0, Abstain-1
(Motion Passed)

Board recessed at 10:59am, the meeting resumed at 11:08am.

8. Decision Required: Transfer Application

RE: Roderick O'Connell & Elizabeth O'Connell
for the use of P.I.G.S. BBQ, LLC
t/a P.I.G.S. BBQ
Transfer from: Replay Café
Antonio Checchia
For the use of FISC, LLC
1845 Brookfield Court
Frederick, MD 21701
Class B, On Sale, Beer and Light Wine

Mrs. Dean swore in the applicants. Pending items are Alcohol Awareness, Fire Marshal, Taxes and the Inspector's Report. Mrs. O'Connell has four people on staff who are TAM certified and copies of those certifications will be sent in today. Inspector Shrum was at the establishment on December 1 at approximately 11:35 am. They meet all requirements set forth by the Board. An entertainment request for televisions and piped in music have been submitted. There is no plan for outdoor seating. Mr. Pippy asked if the applicants will be in

the restaurant each day and they do plan to be there each day. There was no public comment.

MOTION: Mr. Pippy made a motion for a conditional approval until February 27, 2017. This is conditioned on all agencies' approvals.

SECOND: Mrs. Hays seconded the motion

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous Aye-3, Nays-0

(Motion Passed)

9. Decision Required: Transfer Application

RE: Gregorio Delcid Ramos, Jorge Ramos
& Carmen Rojero Heredia
for the use of Santa Rosa Restaurant, Inc
t/a Santa Rose Restaurant
Transfer from: Santa Rosa Restaurant
Roberto Ramos, Roxana Delcid & Jorge Ramos
For the use of Santa Rosa, Inc
107 Baughman's Lane
Frederick, MD 21702
Class B, On Sale, Beer, Wine & Liquor

Mrs. Dean swore in the applicants. Pending items for this application is the Inspector's Report. Inspectors Shrum stated that he was at the establishment on November 18, 2016 at approximately 8:05 pm. They meet all the standards set forth by the Board. Mrs. Dean stated that this transfer is happening so the owners could come off the license so they could open a second location. There was no public comment.

MOTION: Mrs. Hays made a motion to approve the application to be issued today.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous Aye-3, Nays-0
(Motion Passed)

10. Minutes update: Mrs. Sklarew updated the Board she is working on an update. Mr. Stup asked that we work forward with the most recent and then work back through the old minutes.

The meeting adjourned at 11:24am.

Respectfully submitted,
Kathy V. Dean, Administrator
FREDERICK COUNTY LIQUOR BOARD